

**REMARKS**

Claims 33-40 and 42-60 are pending in the application. Claims 41 and 42 are objected to because of informalities. Examiner requires that appropriate correction be made. Claims 33-40 and 42-60 were rejected by the Examiner under 35 U.S.C. § 103(a), as being unpatentable over US Patent Application No. 2002/0128898 A1 to Smith, Jr. et al., (hereinafter referred as "Smith"), in view of US Patent Application No. 2001/0052009 A1 to Desai et al., (hereinafter referred as "Desai").

The Applicant thanks the Examiner for providing extensive cites of the patent references to expedite review of claim rejections made in the present office action.

Regarding claim 33, the office action states that paragraphs [0108] – [0110] of Smith teach an e-mail list management facility configured to provide management capability through the network browser of the survey design machine of a list of e-mail recipients chosen to receive an e-mail associated with a survey. The Applicant respectfully points out that Smith teaches dynamic assignment of surveys such that a list of e-mail recipients chosen to receive an e-mail associated with a survey is useless to Smith.

Smith points out in paragraphs [143] and [144] that use of e-mail is confined to static assignment and consequential problems. Paragraphs [0108] – [0110] of Smith only mention use of e-mail in the context of sending results of surveys – that is after the surveys have been conducted. Those interested in and who receive survey results possibly by e-mail are to be distinguished from the survey takers who receive the surveys not by e-mail according to Smith. Consequently, Smith not only does not teach, but also teaches away from an e-mail list management facility configured to provide management capability through the network browser of the survey design machine of a list of e-mail recipients chosen to receive an e-mail associated with a survey as included in claim 33 of the present application.

Regarding the office action's attempt at demonstrating that Desai (paragraphs [0005], [0035], and [0048]) teaches "the e-mail containing a network link to provide access to the survey for the client computer via protocols . . . ,", the Applicant respectfully disagrees.

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In particular, paragraph [0005] of Desai teaches that the prior art sends surveys as attachments within e-mails rather than teaching or suggesting claim 33 of the present application including sending network links within e-mails to provide access to surveys. Paragraphs [0034] and [0035] of Desai teach use of e-mail or a Web server to forward questionnaires as self-configurable applets, but does not address that found in claim 33 of the present application. Paragraph [0048] of Desai teaches generation of questionnaire response applets, which, in general, is not distribution of questionnaires and does not, in particular, address that found in claim 33 of the present application including sending network links within e-mails to provide survey access.

The Applicant respectfully believes that the above fully demonstrates that the prima facie case put forth in the office action to reject claim 33 is not supported by Smith and/or Desai both alone and in combination and so should be withdrawn. Consequently, it is believed that claim 33 stands in condition for allowance.

Regarding claim 47, the office action proposes that paragraphs [0033] – [0035] of Desai teach using the survey design computer via the network to edit a list of e-mail recipients stored on the host computer found in claim 47 of the present application. Paragraphs [0033] – [0035] only teach forwarding a questionnaire to a client. They do not teach using the survey design computer via the network to edit a list of e-mail recipients stored on the host computer found in claim 47 of the present application.

Furthermore Smith teaches away from using the survey design computer via the network to edit a list of e-mail recipients stored on the host computer found in claim 47 of the present application. In introducing the section entitled Dynamically Assigning a Survey to a Respondent (also the title of Smith), paragraphs [0143] and [0144] recount the pitfalls of static assignment, something Smith avoids by dynamic assignment.

Smith points out that inviting individuals to participate in surveys via e-mail provides no mechanism for selecting a different survey that may be better suited. Smith uses a prescreening survey to determine dynamically what type of survey to send to an individual. Given the approach of dynamic assignment by Smith, there would be no list of e-mail recipients in Smith to edit.

The office action states that "[i]t would have been obvious at the time of the invention for one of ordinary skill in the art [sic] the tools to efficiently edit email list for surveying purposes. This gives users the advantage for rendering modified survey lists from recipients faster." The Applicant respectfully believes that this statement regarding obviousness has no relevance with Smith since Smith's dynamic assignment approach is completely contrary to using e-mail lists for surveying purposes. Consequently, not only does Desai lack the substantive teaching regarding claim 33 of the present application, but also Smith and Desai are incompatible and cannot be properly combined to sustain a rejection of claim 47 of the present application.

In addition, Smith and/or Desai both alone and in combination do not teach or suggest sending an e-mail to recipients designated in the list of e-mail recipients, the e-mail containing a network link to the host computer for client computers receiving the e-mail to access the survey stored on the host computer via the network protocols other than mail protocols of claim 47 of the present application. As discussed above for claim 33, Smith teaches away from using e-mails to distribute surveys. Also, discussed above, Smith and/or Desai both alone and combination do not teach e-mailing network links that provide access to surveys.

The Applicant respectfully believes that the above fully demonstrates that the prima facie case put forth in the office action to reject claim 47 is not supported by the combination of Smith and Desai and so should be withdrawn. Consequently, it is believed that claim 47 stands in condition for allowance.

Regarding claims 52 – 55, the office action rejected these claims on grounds stated to be corresponding to the arguments in the office action given for rejected claims 33 and 47.

Claim 52 includes in part, "... an e-mail list management facility configured to provide management capability through the network browser of the survey design machine of a list of e-mail recipients chosen to receive a survey." As discussed above, Smith teaches away from survey distribution by e-mail so the combination of Smith and Desai does not support a prima facie rejection of claim 52. Consequently, the Applicant respectfully believes that claim 52 stands in condition for allowance.

Claim 53 includes in part, "... storing a list of e-mail addresses on the host computer; and initiating transmission of an e-mail to the e-mail addresses of the list

list of e-mail addresses from the survey design computer via the network, the e-mail containing a network link to the host computer for client computers receiving the e-mail to access the survey." As discussed above, Smith teaches away from survey distribution by e-mail so the combination of Smith and Desai does not support a prima facie rejection of claim 53. Also, as discussed above, Smith and/or Desai both alone and in combination do not teach e-mailing network links that provide access to surveys. Consequently, the Applicant respectfully believes that claim 53 stands in condition for allowance.

Claim 54 includes in part, "... the survey creation engine being configured to provide to the network browser of the survey design machine at least one function to resize web content objects to be added during survey creation." Neither claim 33 nor claim 47 have any such language related to resizing web content objects to be added during survey creation. The combination of Smith and Desai in rejection of claim 33 and claim 47 did not teach or suggest such. Consequently, extending arguments used to reject claims 33 and 47 to also reject claim 54 does not support a prima facie rejection of claim 54. The Applicant respectfully believes that claim 54 stands in condition for allowance.

The office action rejected claims 57 and 58 on grounds corresponding to the office action's arguments for rejected claims 33 and 47. In addition, the office action stated that Fig. 8 of Smith and paragraphs [0097] – [0098] of Smith teaches "constant sum questions, spinner questions . . ." The Applicant respectfully points out that Fig. 8 of Smith is a flowchart that refers generally to "screening questions." Paragraphs [0097] – [0098] of Smith refer generally to "questions, question types, or responses" and "graphical representations . . . may include pictures, drawings, sound, and animations. . . sound, video, or other "objects" that may network users or facilitate communication and interaction with network users."

Claim 57 includes in part, "... the survey creation engine being configured to provide to the network browser of the survey design machine at least one function to select from at least one of the following to be added by the survey creation engine: matrix questions, constant sum questions, spinner questions, progress bars, and rules." Figure 8 of Smith and the combination of Smith and Desai used to reject claims 33 and 47 and by extension by the office action to reject claim 57 do not teach or suggest a

survey design machine that provides for adding of the particular questions listed, progress bars and rules to a survey. Consequently, the prima facie rejection claim 57 is not supported and should be withdrawn. The Applicant respectfully believes that claim 57 stands in condition for allowance.

Claim 58 includes in part, "... the survey creation engine being configured to provide to the network browser of the survey design machine at least one function to perform survey background design." Figure 8 of Smith and the combination of Smith and Desai used to reject claims 33 and 47 and by extension by the office action to reject claim 58 do not teach or suggest a survey design machine that provides for survey background design. Consequently, the prima facie rejection claim 58 is not supported and should be withdrawn. The Applicant respectfully believes that claim 58 stands in condition for allowance.

The office action rejected claims 59 and 60 on grounds corresponding to the office action's arguments for rejected claims 33 and 47. In addition, the office action stated that Figure 3 of Smith teaches "select font of text . . . color . . ." The Applicant respectfully points out that Figure 3 of Smith is an example interface page to generate questionnaires that have selection input for question type, number of items, question format selection consisting of a text box selection, a radio button selection, a drop down selection, or a check box selection, and a text field for entry of text for a completing phrase.

Claim 59 includes in part, "... the survey creation engine being configured to provide to the network browser of the survey design machine at least one function to select font of text used of a survey created by the survey creation engine." Figure 3 of Smith and the combination of Smith and Desai used to reject claims 33 and 47 and by extension by the office action to reject claim 59 do not teach or suggest a survey design machine that provides selection of text font used of a survey. Consequently, the prima facie rejection of claim 59 is not supported and should be withdrawn. The Applicant respectfully believes that claim 59 stands in condition for allowance.

Claim 60 includes in part, "... the survey creation engine being configured to provide to the network browser of the survey design machine at least one function to select color scheme of a survey created by the survey creation engine. Figure 3 of Smith and the combination of Smith and Desai used to reject claims 33 and 47 and by


extension by the office action to reject claim 60 do not teach or suggest a survey design machine that provides selection of color scheme of a survey. Consequently, the prima facie rejection of claim 60 is not supported and should be withdrawn. The Applicant respectfully believes that claim 60 stands in condition for allowance.

As discussed above all pending independent claims, namely claims 33, 47, 52 – 55, and 57 – 60 are believed to be in condition for allowance. Furthermore, all pending dependent claims are also believed to be in condition for allowance at least due to their dependencies on the independent claims and possibly other reasons as well.

All of the claims remaining in the application are believed to be allowable. Favorable consideration and a Notice of Allowance are earnestly solicited.

If questions remain regarding this application, the Examiner is invited to contact the undersigned at (206) 628-7670.

Respectfully submitted,  
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